

DECISION

**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D.C. 20548

FILE:

B-216398

DATE: February 4, 1985**MATTER OF:**

Avitech, Inc.

HAROLD

DIGEST:

Protest against agency's refusal to extend due date for submission of revised proposals in the first step of a two-step procurement is denied where the agency obtained adequate competition and, ultimately, reasonable prices, and the protester does not allege that the agency deliberately attempted to preclude the protester from submitting a proposal.

Avitech, Inc., protests the award of a contract to Bauer/Electro, Inc. under Department of the Navy request for proposals (RFP) No. N68836-84-R-0106. Avitech alleges that the Navy did not provide offerors with sufficient time to submit revised proposals.

The protest is denied.

The procurement, for a J-52 Fuel Control Test Stand, was conducted using the two-step formal advertising method. The first step entails the request for, and the submission, evaluation and, if necessary, discussion of a technical proposal, without pricing, to determine the acceptability of the items offered. In the second step, bids are invited from those firms that submitted acceptable proposals in step 1. See Radiation Systems, Inc., B-211732, Oct. 11, 1983, 83-2 C.P.D. ¶ 434.

The Navy issued step 1, the request for technical proposals, on May 14, 1984. A preproposal conference was held on May 30, at which the Navy answered questions that had previously been submitted concerning the RFP requirements; the Navy also later issued an amendment to the RFP which revised certain technical provisions and answered questions posed by potential offerors at the preproposal conference.

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On July 30, the closing date for the receipt of technical proposals, nine proposals were submitted. These proposals then were evaluated, and the Navy determined that two proposals were acceptable, six proposals, including the proposal submitted by Avitech, were capable of being made acceptable, and one proposal was unacceptable. By letter dated August 24, the Navy notified the six offerors that submitted proposals capable of being made acceptable of the deficiencies in their proposals and requested these offerors to submit revised proposals by September 4. Subsequently, by phone call to each offeror on August 29, and by letter of August 31, the Navy informed the six offerors that revised proposals would be due September 10.

On August 30, Avitech sent a telex to the Navy which requested clarification of the deficiencies the Navy found in Avitech's proposal. The Navy responded to Avitech's questions by telex on September 6. On September 7, Avitech protested to the contracting officer that there was not sufficient time to submit a revised proposal by September 10, and requested the Navy to extend the due date for revised proposals until September 17. The contracting officer denied Avitech's protest on September 7, and continued with the procurement, including requesting and evaluating step 2 bids. The Navy awarded the contract on September 27 to Bauer.

Avitech alleges that the Navy's refusal to extend the due date for submission of revised proposals was arbitrary, violated procurement regulations, and denied Avitech the opportunity to compete in this procurement. Avitech requests that we advise the Navy to resolicit the contract. In response, the Navy states that Avitech's request to extend the due date for revised proposals was denied basically because the contracting officer determined that an offeror with the technical capability to perform the contract would have been capable of submitting a revised proposal in these circumstances by September 10. In this regard, the Navy notes that the RFP provided offerors with detailed instructions for preparing an acceptable technical proposal and with the Navy's specific requirements. The Navy also asserts that the test stands were urgently needed and that the Navy could not extend the due date and thereby delay the purchase.

Choosing the date for bid opening in an advertised procurement, or for the receipt of proposals in a negotiated procurement--as indicated above, two-step procurements

include features of both--is within the discretion of the contracting officer. See Spede Tool Manufacturing Co., B-214622, Sept. 11, 1984, 84-2 C.P.D. ¶ 282; The Kuljian Corp., B-203717, Aug. 28, 1981, 81-2 C.P.D. ¶ 185. In this regard, the propriety of any particular procurement depends on whether all offerors were treated equally and the government obtained adequate competition and reasonable prices, rather than on whether a particular firm was given the opportunity to compete. The Kuljian Corp., B-203717, *supra*. We have applied this rule where, for example, the agency has refused to extend the due date for best and final offers after a protester has alleged that it had insufficient time to prepare a best and final offer, because it did not receive an amendment until shortly before best and final offers were due. We concluded that the agency's refusal to extend the due date was not objectionable unless the agency deliberately attempted to preclude the protester from competing. Larry Napoleon Cooper, B-208747, Jan. 31, 1983, 83-1 C.P.D. ¶ 101; cf. Essex Electro Engineers, Inc., B-210366, June 13, 1983, 83-1 C.P.D. ¶ 650 (where we noted, with respect to whether negotiations had to be reopened in the first step of a two-step procurement, that an agency is not required to continue a procurement to permit a single offeror another chance to improve its proposal).

Here, four of the six offerors who were requested to submit revised proposals were able to submit acceptable technical proposals within the required timeframe. Thus, the Navy received six acceptable technical proposals out of the nine firms that originally submitted offers. Moreover, competitors had been given more than 2 months to prepare their initial technical proposals; the due date already had been extended once; and the need for the test stands, for which bids still had to be invited and submitted, was urgent. Since Avitech does not allege that the Navy deliberately attempted to preclude it from competing, and does not dispute that the Navy obtained adequate competition and, ultimately, reasonable prices, Avitech's inability to submit a revised proposal within the required timeframe does not provide a basis for us to object to the procurement.

The protest is denied.

Milton J. Socolar
for Comptroller General
of the United States